IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1557 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SAROJBEN CHANDROLE & 1 - Applicant(s)
Versus
U H RATHOD & 1 - Respondent(s)

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Appearance :
MR BB NAIK for Applicant(s) : 1 - 2.
NOTICE SERVED for Respondent(s) : 1,
MR.SS PATEL APP for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 21/02/2007

ORAL JUDGMENT

1. The petitioners have approached this Court under Article 226 of the Constitution for setting

aside the complaint and the process issued in Complaint No.16 of 1994 made before learned District Judge, Ahmedabad (Rural). None present for the original complainant, though served.

2. Bare reading of the complaint dated 08.08.1994 revealed that the complainant was employed in Door Darshan Kendra and the accused persons, who are petitioners herein, were joined as the superior officers and the complainant had longstanding dispute with the management about his promotion. The grievance made in the complaint was that the complainant was not being entrusted the work for four years and thereby subjected to mental and physical torture, harassment and insult. Neither has the original complainant mentioned any particular section of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short the 'Act') nor did the summons issued to the petitioners mention such section describing the offence sought to be alleged against the

petitioners. Thus, in short, the complaint is as vague as it could be and completely devoid of any details of the alleged commission of offence under the Act.

2.1. It is stated on oath in the petition, and not controverted by the respondent, that the petitioners had forwarded notice dated 28.07.1994 received from the complainant for his promotion and thereafter civil proceedings by way of Original Application No.501 of 1994 were initiated by the complainant in the Central Administrative Tribunal. Pending that litigation and, in order to bring pressure upon the petitioners, the complaint was made without disclosing any offence and clearly to abuse the process of Court. It was, on that basis, submitted by learned counsel Mr.B.B. Naik that the complaint and the process issued to the petitioners were required to be quashed.

3. In view of the facts summarised hereinabove and in absence of any offence being made out in the complaint, even if the averments in the complaint were taken at their face value, no purpose would be served by allowing the criminal proceedings to continue in the trial court. Therefore, the petition is required to be allowed and accordingly it is allowed so as to set aside the complaint and the process of notice issued in complaint No.16 of 1994 by the District Court, Ahmedabad (Rural). Rule is made absolute with no order as to costs.

(D.H.WAGHELA, J.)

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